

108TH CONGRESS  
1ST SESSION

# H. R. 1760

To establish water conservation and habitat restoration programs in the Klamath River basin and to provide emergency disaster assistance to fishermen, Indian tribes, small businesses, and others that suffer economic harm from the devastating effects of the Klamath River basin fish kill of 2002.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. THOMPSON of California (for himself, Mr. GEORGE MILLER of California, Mr. MATSUI, Mr. FARR, Mr. BLUMENAUER, Ms. SOLIS, Mrs. NAPOLITANO, Mr. BERMAN, Mr. HONDA, Ms. LEE, Ms. HARMAN, Mr. SCHIFF, Ms. WATSON, Ms. LOFGREN, Mr. LANTOS, Mrs. CAPPS, Ms. ESHOO, Mr. WAXMAN, Ms. WOOLSEY, Mr. SHERMAN, Mrs. DAVIS of California, and Mr. BACA) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To establish water conservation and habitat restoration programs in the Klamath River basin and to provide emergency disaster assistance to fishermen, Indian tribes, small businesses, and others that suffer economic harm from the devastating effects of the Klamath River basin fish kill of 2002.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Klamath River Basin  
3 Restoration and Emergency Assistance Act of 2003”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) KLAMATH BASIN.—The term “Klamath  
7 Basin” means the watershed areas in Oregon and  
8 California that drain into the Klamath River Sys-  
9 tem.

10 (2) KLAMATH BASIN NATIONAL WILDLIFE REF-  
11 UGES.—The term “Klamath Basin National Wildlife  
12 Refuges” means the following:

13 (A) The Lower Klamath National Wildlife  
14 Refuge.

15 (B) The Tule Lake National Wildlife Ref-  
16 uge.

17 (C) The Clear Lake National Wildlife Ref-  
18 uge.

19 (D) The Upper Klamath National Wildlife  
20 Refuge.

21 (E) The Bear Valley National Wildlife Ref-  
22 uge.

23 (F) The Klamath Marsh National Wildlife  
24 Refuge.

1           (3) PROGRAM.—The term “Program” means  
2           the Klamath River Basin Conservation Area Res-  
3           toration Program established under section 3.

4           (4) SECRETARY.—The term “Secretary” means  
5           the Secretary of the Interior, unless otherwise speci-  
6           fied.

7           (5) TASK FORCE.—The term “Task Force”  
8           means the Klamath Basin Restoration Task Force  
9           established by section 6.

10          (6) TRIBES.—The term “Tribes” means—

11                   (A) the Klamath Tribes;

12                   (B) the Hoopa Valley Tribe;

13                   (C) the Karuk Tribe; and

14                   (D) the Yurok Tribe.

15          (7) WATER CONSERVATION.—The term “water  
16          conservation”—

17                   (A) subject to subparagraph (B), means  
18                   actions taken to improve the efficiency of stor-  
19                   age, conveyance, distribution, or use of water,  
20                   including such actions taken specifically for  
21                   protection and restoration of fish and wildlife  
22                   species in the Klamath Basin; and

23                   (B) does not include the construction of  
24                   any dam, reservoir, or well.

1 **SEC. 3. KLAMATH WATER QUALITY AND CONSERVATION**  
2 **PROGRAM.**

3 (a) ESTABLISHMENT OF PROGRAM.—The Secretary  
4 of the Interior, acting through the Commissioner of the  
5 Bureau of Reclamation and the Director of the United  
6 States Fish and Wildlife Service, shall, immediately upon  
7 the enactment of this Act, establish a program for pro-  
8 viding financial and technical assistance for water con-  
9 servation in the Klamath Basin. The program shall be  
10 known as the “Klamath River Basin Conservation Area  
11 Restoration Program”.

12 (b) ASSISTANCE.—The Secretary, under the Pro-  
13 gram, may provide loans, grants, and technical assistance  
14 to qualified applicants for preparation and implementation  
15 of plans for and short- and long-term eligible water con-  
16 servation projects and measures in the Klamath Basin.

17 (c) QUALIFIED APPLICANT.—

18 (1) IN GENERAL.—For purposes of subsection  
19 (b), a qualified applicant is any irrigation district,  
20 Indian tribe, nonprofit nongovernmental organiza-  
21 tion, or individual landowner that meets qualification  
22 requirements established by the Secretary under  
23 paragraph (2).

24 (2) QUALIFICATION REQUIREMENTS.—The Sec-  
25 retary shall issue regulations establishing qualifica-  
26 tion requirements for purposes of paragraph (1) by

1 not later than 1 year after the date of the enactment  
2 of this Act.

3 (d) ELIGIBLE WATER CONSERVATION PROJECTS  
4 AND MEASURES.—For purposes of subsection (b), eligible  
5 water conservation projects and measures include the fol-  
6 lowing:

7 (1) Incentives for growing crops that require  
8 less water than crops grown on the date of the en-  
9 actment of this Act, in—

10 (A) the Upper Klamath Basin above Iron  
11 Gate Dam; or

12 (B) the Scott and Shasta River Valleys  
13 and other Lower Klamath Basin areas.

14 (2) Purchase, from a willing seller, of land,  
15 water rights associated with land, and other prop-  
16 erty interests in the Upper Klamath Basin above  
17 Iron Gate Dam and within the Scott and Shasta  
18 River Valleys and other Lower Klamath Basin areas,  
19 including acquisition of nonirrigation conservation  
20 easements that preclude the grantor of such an ease-  
21 ment from irrigating lands that are subject to such  
22 an easement.

23 (3) Short- or long-term contracts for the lease,  
24 from a willing seller or lessor of land, of water rights

1 associated with land and other property interests in  
2 the Klamath Basin.

3 (4) Tail-water recovery programs, and lining or  
4 piping (or both) of earthen irrigation channels.

5 (5) Groundwater recharge and management  
6 systems.

7 (6) Restoration of in-stream habitat conditions,  
8 consistent with generally accepted stream improve-  
9 ment practices, in accordance with the California  
10 Department of Fish and Game stream improvement  
11 manual (for projects and measures in California) or  
12 the Oregon Watershed Enhancement Board stream  
13 restoration guidelines (for projects and measures in  
14 Oregon), as applicable.

15 (7) Field leveling, monitoring of soil moisture  
16 conditions, and irrigation scheduling.

17 (8) Restoration of riparian habitat for the pur-  
18 poses of improving water quality and conservation.

19 (9) Updating and installation of water moni-  
20 toring and metering facilities.

21 (e) WATER CONSERVATION FOR FISH HABITAT RES-  
22 TINATION.—The Secretary shall require that any water  
23 conservation project or measure for fish habitat restora-  
24 tion purposes that is carried out with assistance under this

1 section shall be carried out in accordance with all applica-  
2 ble State and Federal laws.

3 (f) PROHIBITION OF USE OF FUNDS.—None of the  
4 funds made available under this Act may be used to plan,  
5 design, or construct new facilities that may be used to  
6 store, divert, distribute, or otherwise supply water from  
7 any source for the purpose of bringing newly irrigated  
8 lands into agricultural production.

9 (g) COST SHARING.—

10 (1) IN GENERAL.—The Federal share of the  
11 cost of any activity carried out with a loan or grant  
12 under this section shall not exceed 75 percent.

13 (2) IN-KIND CONTRIBUTIONS.—(A) The Sec-  
14 retary shall apply to the non-Federal share of the  
15 cost of any activity carried out with a loan or grant  
16 under this section (in addition to cash outlays), the  
17 value of in-kind contributions to the activity of real  
18 and personal property and voluntary personal serv-  
19 ices provided from non-Federal sources.

20 (B) Any valuation of property or services by the  
21 Secretary for purposes of this paragraph is final and  
22 not subject to judicial review.

23 (C) The Secretary shall by regulation estab-  
24 lish—

1           (i) the training, experience, and other  
2           qualifications that volunteers must have in  
3           order for their services to be considered as in-  
4           kind contributions under this paragraph; and

5           (ii) the standards under which the Sec-  
6           retary will determine the value of in-kind con-  
7           tributions for purposes of this paragraph.

8           (3) LIMITATION.—The Secretary may not con-  
9           sider the expenditure, either directly or indirectly,  
10          with respect to the Program of Federal moneys re-  
11          ceived by a State or local government to be a finan-  
12          cial contribution by a non-Federal source for pur-  
13          poses of this subsection.

14          (h) OPERATION AND MAINTENANCE EXPENSES.—No  
15          Federal funds may be expended for operation or mainte-  
16          nance of any facility constructed under this Act.

17          (i) AUTHORIZATION OF APPROPRIATIONS.—

18               (1) IN GENERAL.—There are authorized to be  
19               appropriated to the Secretary to carry out this sec-  
20               tion \$200,000,000 for fiscal years 2004 through  
21               2016, of which no more than \$5,000,000 shall be  
22               used for short-term and long-term water leasing pro-  
23               grams in the Klamath Basin for eligible water con-  
24               servations projects and measures described in sub-  
25               section (d)(4).



1           (2) AVAILABILITY.—Amounts appropriated  
2       under this subsection may remain available until ex-  
3       pended.

4 **SEC. 4. EMERGENCY DISASTER ASSISTANCE.**

5       (a) IN GENERAL.—The Secretary of the Interior,  
6       subject to the availability of appropriations, shall provide  
7       emergency financial assistance to persons in northern  
8       California and Oregon coastal communities that were ad-  
9       versely affected by the Klamath Basin salmon kill disaster  
10      of 2002, including Indian tribes, participants in the rec-  
11      reational and commercial fishing industries, owners and  
12      operators of fish processing facilities, and other businesses  
13      that were so affected.

14      (b) AUTHORIZATION OF APPROPRIATIONS.—There  
15      are authorized to be appropriated to the Secretary of the  
16      Interior \$20,000,000 to provide assistance under this sec-  
17      tion.

18 **SEC. 5. FLOW RATES.**

19      The Secretary of the Interior shall release the funds  
20      necessary to complete in final form the document entitled  
21      “Evaluation of Interim Instream Flow Needs in the Klam-  
22      ath River, Phase II, Final Report”, prepared for the De-  
23      partment of the Interior by Dr. Thomas B. Hardy and  
24      Mr. R. Craig Addley (also known as the “Final Hardy

1 Phase II Report”) by no later than one month after the  
2 date of the enactment of this Act.

3 **SEC. 6. KLAMATH BASIN RESTORATION TASK FORCE.**

4 (a) ESTABLISHMENT.—There is established a Klam-  
5 ath Basin Restoration Task Force.

6 (b) FUNCTIONS.—The Task Force shall—

7 (1) advise the Secretary in the formulation, co-  
8 ordination, and implementation of the Program;

9 (2) develop and propose water conservation  
10 projects and measures for receipt of assistance  
11 under the Program, and make recommendations on  
12 eligible water conservation projects and measures to  
13 be provided assistance under the Program;

14 (3) assist, and coordinate its activities with,  
15 Federal, State, and local governmental or private  
16 anadromous and resident native fish restoration  
17 projects within the Klamath Basin;

18 (4) conduct any other activity that is necessary  
19 to accomplish the objectives of the Program; and

20 (5) act as an advisor to the Klamath Fisheries  
21 Management Council.

22 (c) MEMBERSHIP AND APPOINTMENT.—The Task  
23 Force shall consist of 32 members, as follows:

24 (1) Nine members appointed by the Governor of  
25 California, as follows:

1 (A) A representative of the California com-  
2 mercial salmon fishing industry.

3 (B) A representative of the California in-  
4 river sport fishing or in-stream recreational in-  
5 dustry.

6 (C) A representative of the California De-  
7 partment of Fish and Game.

8 (D) A representative of the California De-  
9 partment of Water Resources.

10 (E) A representative of private land own-  
11 ers in the Lower Klamath River basin farming  
12 and ranching community, who reside in the  
13 State of California and who are not dependent  
14 on the Federal Klamath Irrigation Project for  
15 water supplies.

16 (F) A representative of private land owners  
17 in the farming and ranching community who re-  
18 side in the State of California and who are de-  
19 pendent on the Federal Klamath Irrigation  
20 Project for water supplies.

21 (G) Two representatives of California-  
22 based environmental organizations, or of na-  
23 tional organizations having an office in Cali-  
24 fornia, with interests in ecosystem restoration,

1           anadromous fisheries and wildlife refuges in the  
2           Klamath Basin.

3           (H) A citizen of California who resides in  
4           the Lower Klamath Basin to represent the gen-  
5           eral business community and who is drawn  
6           from the California business community of the  
7           Lower Klamath Basin.

8           (2) Nine members appointed by the Governor of  
9           Oregon, as follows:

10           (A) A representative of the Oregon com-  
11           mercial salmon fishing industry.

12           (B) A representative of the Oregon in-river  
13           sport fishing or in-stream recreational industry.

14           (C) A representative of the Oregon Depart-  
15           ment of Fish and Wildlife.

16           (D) A representative of the Oregon Water  
17           Resources Department.

18           (E) A representative of private land own-  
19           ers in the Upper Klamath Basin farming and  
20           ranching community, who reside in the State of  
21           Oregon and who are not dependent on the Fed-  
22           eral Klamath Irrigation Project for water sup-  
23           plies.

24           (F) A representative of private land owners  
25           in the farming and ranching community who re-

1 side in the State of Oregon and who are de-  
2 pendent on the Federal Klamath Irrigation  
3 Project for water supplies.

4 (G) Two representatives of Oregon-based  
5 environmental organizations, or of national or-  
6 ganizations having an office in Oregon, with in-  
7 terests in ecosystem restoration, anadromous  
8 fisheries and wildlife refuges in the Klamath  
9 Basin.

10 (H) A citizen of Oregon who resides in the  
11 Upper Klamath Basin to represent the general  
12 business community and who is drawn from the  
13 Oregon business community of the Upper  
14 Klamath Basin.

15 (3) A representative of the Department of the  
16 Interior, who shall be appointed by the Secretary.

17 (4) A representative of the National Marine  
18 Fisheries Service and the Department of Commerce,  
19 who shall be appointed by the Secretary of Com-  
20 merce.

21 (5) A representative of the Department of Agri-  
22 culture who shall be appointed by the Secretary of  
23 Agriculture.

1           (6) A representative of the Environmental Pro-  
2           tection Agency, who shall be appointed by the Ad-  
3           ministrator of that agency.

4           (7) One individual who shall be appointed by  
5           the County Commissioners of Klamath County, Or-  
6           egon.

7           (8) One individual who shall be appointed by  
8           the Board of Supervisors of Del Norte County, Cali-  
9           fornia.

10          (9) One individual who shall be appointed by  
11          the Board of Supervisors of Siskiyou County, Cali-  
12          fornia.

13          (10) One individual who shall be appointed by  
14          the Board of Supervisors of Humboldt County, Cali-  
15          fornia.

16          (11) One individual who shall be appointed by  
17          the Board of Supervisors of Modoc County, Cali-  
18          fornia.

19          (12) One individual who shall be appointed by  
20          the Board of Supervisors of Trinity County, Cali-  
21          fornia.

22          (13) A representative of the Karuk Tribe, who  
23          shall be appointed by the governing body of the  
24          Tribe.

1           (14) A representative of the Klamath Tribes,  
2           who shall be appointed by the governing body of the  
3           Klamath Tribes.

4           (15) A representative of the Yurok Tribe, who  
5           shall be appointed by the governing body of the  
6           Tribe.

7           (16) A representative of the Hoopa Valley  
8           Tribe, who shall be appointed by the governing body  
9           of the Hoopa Valley Tribe.

10          (d) TERMS.—

11           (1) IN GENERAL.—The term of a member of  
12           the Task Force is 4 years, except that an individual  
13           may continue to serve as a member after expiration  
14           of the individual's term until a successor has taken  
15           office.

16           (2) SERVICE.—A member of the Task Force  
17           shall serve at the pleasure of the person having au-  
18           thority to appoint the member.

19           (3) VACANCIES.—(A) Any vacancy on the Task  
20           Force shall be filled in the manner in which the  
21           original appointment was made.

22           (B) Any member appointed to fill a vacancy oc-  
23           curring before the expiration of the term for which  
24           the member's predecessor was appointed shall be ap-  
25           pointed only for the remainder of such term.

1 (e) TRANSACTION OF BUSINESS.—

2 (1) PROCEDURES.—The Task Force shall es-  
3 tablish practices and procedures for the carrying out  
4 of its functions under subsection (b). The procedures  
5 shall include the requirement that a quorum of the  
6 Task Force must be present before business may be  
7 transacted. The Task Force shall make decisions by  
8 the unanimous consent of the members voting (with-  
9 out regard to any abstentions).

10 (2) CHAIRMAN.—The members of the Task  
11 Force shall select a Chairman from among its mem-  
12 bers. The term of membership as Chairman shall be  
13 one year. The chairmanship shall rotate annually be-  
14 tween appointees from California and appointees  
15 from Oregon. Any member who is an employee of a  
16 Federal agency shall be considered, for purposes of  
17 this paragraph, to be an appointee from both States,  
18 and may serve as Chairman without regard to the  
19 member's State of residence.

20 (3) MEETINGS.—The Task Force shall meet at  
21 the call of the Chairman or upon the request of a  
22 majority of its members, but not less than 3 times  
23 each year. At least one meeting each calendar year  
24 shall be held in or near Klamath Falls, Oregon, at  
25 least one meeting each calendar year shall be held



1 in or near Yreka, California, and at least one meet-  
2 ing each calendar year shall be held in or near Eureka,  
3 California.

4 (f) STAFF AND ADMINISTRATION.—

5 (1) ADMINISTRATIVE SUPPORT.—The Sec-  
6 retary, through the United States Fish and Wildlife  
7 Service and other relevant agencies, shall provide the  
8 Task Force with the administrative and technical  
9 support services necessary for the effective func-  
10 tioning of the Task Force.

11 (2) INFORMATION.—The Secretary shall furnish  
12 the members of the Task Force with relevant infor-  
13 mation concerning the Klamath Basin.

14 (3) ORGANIZATION.—The Task Force shall de-  
15 termine its organization, and prescribe the practices  
16 and procedures for carrying out its functions under  
17 subsection (b).

18 (4) SCIENCE ADVISORY TEAM.—(A) The Task  
19 Force shall establish a Science Advisory Team to ad-  
20 vise it on technical issues referred to it and to review  
21 and advise the Task Force on the scientific merits  
22 of proposed projects and measures.

23 (B) The Task Force shall—

24 (i) provide staff support for the Science  
25 Advisory Team; and

1 (ii) reimburse travel expenses of members  
2 of the Science Advisory Team in the same man-  
3 ner such reimbursement is provided to Task  
4 Force members.

5 (g) MEMBERS WHO ARE FEDERAL OR STATE EM-  
6 PLOYEES.—Any Task Force member who is an officer or  
7 employee of the United States, the State of California, or  
8 the State of Oregon at the time of appointment to the  
9 Task Force, and who serves on the Task Force as a rep-  
10 resentative of a State or Federal agency, shall cease to  
11 be a member of the Task Force within 14 days after the  
12 date on which the member ceases to be employed by such  
13 agency.

14 (h) EXPENSES.—

15 (1) TRAVEL EXPENSES.—(A) Except as pro-  
16 vided in subparagraph (B), while away from their  
17 homes or regular places of business in the perform-  
18 ance of services for the Task Force, Task Force  
19 members shall be allowed travel expenses, including  
20 a per diem allowance in lieu of subsistence, in the  
21 same manner as persons employed intermittently in  
22 the Government service are allowed travel expenses  
23 under section 5703 of title 5, United States Code.

24 (B) Any Task Force member who is an em-  
25 ployee of any agency or governmental unit and is eli-

1       gible for travel expenses from that agency or unit  
2       for performing services for the Task Force is not eli-  
3       gible for travel expenses under this paragraph.

4           (2) LIMITATION ON SPENDING AUTHORITY.—  
5       Amounts appropriated under section 6 of the Klam-  
6       ath River Basin Fishery Resources Restoration Act  
7       (16 U.S.C. 460ss–5) may not be used to reimburse  
8       any agency or governmental unit that has a rep-  
9       resentative as a member of the Task Force with re-  
10      spect to the performance of such member’s duties on  
11      the Task Force.

12      (i) MEMORANDUM OF AGREEMENT REGARDING EN-  
13      FORCEMENT.—In order to strengthen and facilitate the  
14      enforcement of Klamath Basin fishery harvesting and  
15      wildlife hunting regulations, the Secretary shall enter into  
16      a memorandum of agreement with the California Depart-  
17      ment of Fish and Game and the Oregon Department of  
18      Fish and Wildlife that—

19           (1) specifies the enforcement activities within  
20      the Klamath Basin for which the Department of In-  
21      terior and the California Department of Fish and  
22      Game and Oregon Department of Fish and Wildlife  
23      are responsible; and

1           (2) contains such provisions as are necessary to  
2       ensure coordinated implementation of Federal and  
3       State enforcement activities.

4       (j) TERMINATION OF EXISTING ENTITIES.—

5           (1) TERMINATION.—The Upper Klamath Basin  
6       Working Group referred to in section 1024 of the  
7       Omnibus Parks and Public Lands Act of 1996 (Pub-  
8       lic Law 104–333; 110 Stat. 4224) and the Klamath  
9       Basin Fisheries Restoration Task Force established  
10      by section 4 of the Klamath River Basin Fishery Re-  
11      sources Restoration Act (16 U.S.C. 460ss–3) are  
12      terminated.

13          (2) CONFORMING AMENDMENTS AND RE-  
14      PEALS—(A) Section 1024 of the Omnibus Parks and  
15      Public Lands Act of 1996 (Public Law 104–333;  
16      110 Stat. 4224) is repealed.

17          (B) The Klamath River Basin Fishery Re-  
18      sources Restoration Act is amended—

19              (i) in section 2(b)(1) (16 U.S.C. 460ss–  
20              1(b)(1)) by striking “, in consultation with the  
21              task force established under section 4,”;

22              (ii) in section 2(b)(2) (16 U.S.C. 460ss–  
23              1(b)(2)) by striking “, in cooperation with the  
24              task force established under section 4,”;

1 (iii) in section 6(a) (16 U.S.C. 460ss–5(a))  
2 by striking “and 4(i); and  
3 (iv) by repealing section 4 (16 U.S.C.  
4 460ss–3).

5 **SEC. 7. TRINITY RIVER FLOW IMPLEMENTATION.**

6 (a) IN GENERAL.—Notwithstanding any other provi-  
7 sion of law, the record of decision by the United States  
8 Fish and Wildlife Service entitled “Trinity River  
9 Mainstem Fishery Restoration”, issued by the Secretary  
10 of the Interior with the concurrence of the Hoopa Valley  
11 Tribe on December 19, 2000 (referred to in this section  
12 as the “record of decision”), shall be considered to comply  
13 with all provisions of law under which, and subject to  
14 which, the record of decision was issued.

15 (b) IMPLEMENTATION.—Upon enactment of this Act,  
16 the Secretary of the Interior, and any other person with  
17 respect to which the record of decision describes any right,  
18 authority, or obligation, shall implement and otherwise  
19 comply with the record of decision.

20 **SEC. 8. REPORTING REQUIREMENTS.**

21 The Secretary of the Interior, acting through the  
22 Commissioner of the Bureau of Reclamation, shall submit  
23 to the Congress by no later than 90 days after the date  
24 of the enactment of this Act, and quarterly thereafter, a  
25 report describing the progress of the conservation pro-

grams in the Klamath Basin implemented pursuant to this Act.

**SEC. 9. KLAMATH PROJECT IMPROVEMENT.**

In addition to the purposes of the Klamath Reclamation Project under the Act of February 9, 1905 (chapter 567; 33 Stat. 714), and other applicable law, the Secretary of the Interior shall operate and maintain the Project for the purposes of—

- (1) fish and wildlife and the maintenance and restoration of national wildlife refuges in the Klamath Basin;
- (2) tribal trust responsibilities; and
- (3) water quality.

**SEC. 10. KLAMATH BASIN NATIONAL WILDLIFE REFUGES.**

(a) PURPOSE OF THE REFUGES.—The purpose of each of the Klamath Basin National Wildlife Refuges is to conserve migratory birds and other wildlife and the ecosystems upon which those species depend.

(b) Refuge Water Supply Study.—

(1) IN GENERAL.—The Secretary of the Interior shall conduct a study to determine the amount of water necessary to sustain wetland habitats within the Klamath Basin National Wildlife Refuges in order to meet the fish and wildlife conservation purpose of the refuges.

1           (2) REPORT.—The Secretary shall submit a re-  
2       port containing the findings of this study to the  
3       Congress by no later than one year after the date of  
4       enactment of this act. The report shall include deter-  
5       minations regarding the following:

6           (A) The average monthly water deliveries  
7       to the Klamath Basin National Wildlife Refuges  
8       from 1961 to 2002.

9           (B) The water necessary to sustain wet-  
10      land habitats in the Klamath Basin National  
11      Wildlife Refuges under current management  
12      practices.

13          (C) The water necessary to sustain wet-  
14      lands in the Klamath Basin National Wildlife  
15      Refuges under optimal fish and wildlife man-  
16      agement.

17          (D) The opportunities for re-engineering  
18      the current water delivery system into a more  
19      efficient water delivery system.

20          (E) The feasibility of storing water within  
21      the current boundaries of Lower Klamath Na-  
22      tional Wildlife Refuge and Tule Lake National  
23      Wildlife Refuge.

24          (F) The nutritional and habitat values of  
25      agricultural crops and native habitats for mi-

1           gratory birds and other wildlife of the Klamath  
2           Basin National Wildlife Refuges.

3           (G) The feasibility of storing water within  
4           the boundaries of Lower Klamath National  
5           Wildlife Refuge as established under Executive  
6           Order 924, dated August 8, 1908.

7           (c) WATER STORAGE AUTHORITY.—

8           (1) IN GENERAL.—The Secretary of the Inte-  
9           rior may store water on the Lower Klamath Na-  
10          tional Wildlife Refuge and the Tule Lake National  
11          Wildlife Refuge, if such storage does not compromise  
12          the waterfowl and wildlife habitat and values of the  
13          refuge.

14          (2) USE OF STORED WATER.—Water stored on  
15          a refuge under this paragraph shall be dedicated  
16          solely to maintain and restore wetland and open  
17          water habitats necessary to meet the fish and wild-  
18          life conservation purpose of the refuge.

19          (d) WATER DELIVERIES TO REFUGES.—

20          (1) IN GENERAL.—The Secretary of the Inte-  
21          rior shall provide to the Klamath Basin National  
22          Wildlife Refuges on an incremental basis such  
23          amounts of water, in addition to any water stored  
24          pursuant to subsection (b), as are determined to be



1 necessary in the report required under subsection  
2 (a).

3 (2) DEADLINE FOR FULL DELIVERY.—The Sec-  
4 retary of the Interior, by no later than 1 year after  
5 the date of enactment of this Act, shall—

6 (A) implement full water deliveries to the  
7 Klamath Basin National Wildlife Refuges; and

8 (B) ensure that the Klamath Basin Na-  
9 tional Wildlife Refuges receive the water deter-  
10 mined necessary under subsection (a)(2)(B).

11 (3) DEADLINE FOR DELIVERY OF WATER NEC-  
12 ESSARY FOR OPTIMAL WETLANDS.—The Secretary  
13 of the Interior shall, by no later than five years after  
14 the date of the enactment of this Act, ensure that  
15 the Klamath Basin National Wildlife Refuges receive  
16 the water determined to be necessary under para-  
17 graph (a)(2)(C).

18 **SEC. 11. TRIBAL RIGHTS NOT DIMINISHED OR AFFECTED.**

19 Nothing in this Act is intended to in any way dimin-  
20 ish the water, fishery, or other rights of the Tribes as con-  
21 firmed by treaty, Executive Order, or other judicial, ad-  
22 ministrative, or legislative authority, or to diminish the ob-  
23 ligations of the Secretary of the Interior on behalf of the  
24 United States to assert and protect such rights.

